(46)

HIGH COURT OF CHHATTISGARH AT BILASPUR

Single Bench : Hon'ble Shri H.L. Dattu, C.J.

Writ Petition No.1566 of 2002

Petitioner Ramesh Kumar S/o Indersen Agarwal, Aged about 40 years, Jati Agarwal, R/o Village & P.S. Shanker Garh, Tehsil Samari (Kusmi), District Sarguja (C.G.)

Vs.

Respondents

1. Modho, S/o Dhumma Urao, R/o Village & P.S. Shanker Garh, Tehsil Samari (Kusmi), District Sarguja (C.G.)
2. Chamra, S/o Dhumma Urao,
3. Lamru, S/o Dhumma Urao,

Both resident of :
Village & P.S. Shanker Garh, Tehsil Samari (Kusmi), District Sarguja (C.G.)

Present : Shri Abdul Wahab Khan, counsel for the petitioner.

ORAL ORDER
(Passed on 14th March, 2007)

This writ petition is filed against the order dated 28-6-2002 passed by the Additional Commissioner under the provisions of the Chhattisgarh Land Revenue Code, 1959 (henceforth 'the Code') refusing to grant an interim prayer sought for by the petitioner.

(2) This Court, in exercise of its discretionary jurisdiction under Articles 226/227 of the Constitution of India, normally would not interfere with the discretionary orders passed by the authorities under the Code. The exception being if the orders so passed are arbitrary, illegal and one without jurisdiction, then only this Court would exercise its jurisdiction.

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(3) In the present case, after considering the case of the petitioner, the second appellate authority has thought it fit not to grant interim prayer. After going through the interim prayer made by the petitioner before the second appellate authority and the order passed on the interim prayer, it cannot be said that the order so passed is arbitrary, illegal or without jurisdiction. Therefore, the relief sought for in this writ petition cannot be granted by this Court.

(4) Accordingly, the writ petition is disposed of. However, liberty is reserved to the petitioner to make an appropriate application before the authority before whom the second appeal filed by the petitioner is pending. If such an application is filed by the petitioner, the authority concerned shall consider the same in accordance with law.

Sd/-
Chief Justice